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September 30, 2011

Hon. Colleen McMahon
United States District Judge
United States District Court, Southern District of New York
500 Pearl St.
New York, NY 10007-1312

Re: Chikezie Ottah v. First Mobile Technologies
Case No. 1:10-cv-07296-CM (S.D.N.Y.)

10/11/2011
proceed + your
motion for
summary
judgment

Dear Judge McMahon:

MEMO ENDORSED

This firm represents Defendant First Mobile Technologies ("FMT") in the above-captioned matter. FMT is in receipt of the Court's Decision and Order Denying Defendant's Motion to Dismiss Plaintiff's Second Amended Complaint (dkt. 36). As directed by the Court, FMT contacted Plaintiff, Mr. Chikezie Ottah, by telephone to discuss the need for a *Markman* hearing to clarify any elements of the claim of U.S. Patent No. 7,152,840.

FMT agrees with the Court that the '840 claim limitations are readily understandable, and therefore believes that a *Markman* hearing is unnecessary.

Per Mr. Ottah's September 28, 2011 correspondence to FMT, FMT understands that Mr. Ottah plans to inform the Court of his opinion that "*Markman* will benefit us all if [FMT] require[s] more clarity." While Mr. Ottah's response is not clear to FMT, FMT reiterates that it agrees with the Court that the '840 claim limitations are readily understandable.

Because FMT is unable to report that Mr. Ottah specifically agrees with the Court and FMT that a *Markman* hearing is unnecessary, FMT seeks direction from the Court regarding next steps, including whether the parties should proceed with Motions for Summary Judgment pursuant to the schedule set forth in the Court's aforementioned Order. If, however, the Court chooses to conduct a *Markman* hearing, FMT respectfully requests that the Court direct Mr. Ottah to provide proposed claim constructions for the sole claim of the '840 patent and provide FMT an opportunity to respond in advance of such hearing.

Copies mailed/faxed/handed to counsel on 10/12/11

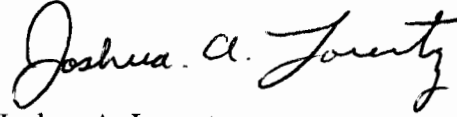
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Per the Individual Practices of Judge McMahon (and the convenience of Ottah), Ottah has simultaneously been sent a copy of this letter.

Respectfully submitted,

A handwritten signature in black ink that reads "Joshua A. Lorentz". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

Joshua A. Lorentz

Admitted Pro Hac Vice

Attorney for Defendant First Mobile
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cc: Chikezie Ottah
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